

Senate Education Committee

Kat Bourque 271-3091

SB 102, relative to eligibility of school district employees for Family and Medical Leave Act.

Hearing Date: February 14, 2017

Time Opened: 9:02 a.m.

Time Closed: 9:29 a.m.

Members of the Committee Present: Senators Reagan, Ward, Watters and Kahn

Members of the Committee Absent : Senator Giuda

Bill Analysis : This bill provides family and medical leave to certain school district employees who are not otherwise eligible for leave under the federal Family and Medical Leave Act.

Sponsors :

Sen. Soucy
Rep. Heath

Sen. Woodburn
Rep. Cornell

Sen. Kahn

Who supports the bill: Brendon Browne (NHSBA), Sherry Sparks, Rachel Hawkinson (NEA-NH), Senator Soucy, Timm Koran (Granite State Progress)

Who opposes the bill: Carl Ladd (NHSAA), Barrett Christina (NHSBA)

Who is neutral on the bill: No one

Summary of testimony presented in support :

Senator Soucy

Prime Sponsor

- Senator Soucy explained that FMLA provides for up to 12 weeks of unpaid leave per year for certain family medical reasons, such as placement of a child for adoption of foster care, care of an immediate family member, the birth of a child, or if the employee themselves has run out of sick leave time.
- To be eligible for FMLA, the employee must have been employed for 12 months and have put in 1250 hours of time.
- For some school district employees, the number of hours has been difficult to attain and has led to different judgments that have been made in different districts.
- Some employees who have had a reduction in their hours leaves them shy of the minimum hours needed. This is especially applicable to educational support staff. These individuals were often hired with longer hours intended but budget restrictions hindered this.
- FMLA does not require paying the employee, but to hold their job and health insurance.

- Not all educational support staff has health benefits or is entitled to paid sick leave.
- This bill provides family medical leave to certain school district employees who are not otherwise eligible for leave under FMLA.
- Senator Watters asked if the insurance payments are made by the employee, this is why there is no fiscal note. Senator Soucy stated that this is correct. This bill does not require that their salary continue to be paid but that their benefits continue to be paid to the extent that they already were.
- Senator Watters asked if this bill would be advantageous in helping districts find and retain workers. Senator Soucy explained that there may be certain periods in a person's life where they need a little extra time to pay attention to a personal need and that this bill may help to retain employees who have a lot of expertise.

Brendon Browne
NEA-NH

- Submitted written testimony in support of the bill.

Rachel Hawkinson
NEA-NH

- Many educational support professionals do not qualify for FMLA because they are not scheduled to work enough hours.
- These personnel are very essential to the operation of schools and are valued by their employers. However, they often lose their jobs or health insurance benefits if they have a medical crisis of their own.
- Ms. Hawkinson provided testimony from educational support personnel about how FMLA would have benefitted them if it were available.
- Senator Reagan asked who requires the certain number of hours to be met. Ms. Hawkinson explained that the federal government requires this. This bill would lower the level to 900 hours in New Hampshire.
- Senator Kahn asked if the difference between a 1250 hour and 900 hour requirement was significant. Ms. Hawkinson explained that part of the issue with FMLA is that if the employee takes a certain number of sick days, the hours are not about what one are scheduled for work, but how much they actually work. This can be affected by snow days, sick days, or other emergencies for when the school may be closed.
- Senator Kahn stated that a person who is working 6 hours a day or so throughout the school year would be working more than 900 hours, but less than 1250. Ms. Hawkinson stated that this was correct.
- Senator Reagan asked to confirm that these individuals are not teachers or administrators. Ms. Hawkinson stated that this was correct.

Sherry Sparks

- Ms. Sparks has worked as a paraprofessional for twenty years.
- At the beginning of this year, she took herself out of the retirement system with her

employer to take Tuesdays off to care for her husband, who is ill.

- Ms. Sparks stated that at Thanksgiving, her husband was in the hospital and given a very short time to live.
- When Ms. Sparks' husband was in hospice care, she asked her employer for more leave time. She was given this, but her husband was concerned about a lack of FMLA.
- The day before her husband passed away, she was denied FMLA because she had not worked the required 1250 hours within the last twelve month period.
- Ms. Sparks stressed that this bill is so important and that she hopes this is able to help someone else.

Summary of testimony presented in opposition :

Barrett Christina
NHSBA

- NHSBA is opposed to this legislation.
- The Association certainly sympathizes with those who have struggled when needing care that would otherwise be covered under FMLA.
- NHSBA believes that this is an issue between the employer and employee and would be best handled through the collective bargaining process.
- Collective bargaining agreements across the state have a variety of provisions regarding leave time.
- Mr. Christina explained that if the employee has health insurance, when they are on family medical leave, those insurance benefits remain with the employee and the employer would be paying them.
- Senator Watters agreed that there is a difficulty for those employees who are barely missing the required hours. He asked if the NHSBA would be willing to work with the prime sponsor of this bill to study this issue and see if there is a way forward. Mr. Christina stated that they would be willing to study the issue with stakeholders to reach reasonable solutions.

Neutral Information Presented: N/A

Future Action: Pending